

2417

RESOLUTION NO. 2417  
JULY 29, 1976

RESOLUTION APPROVING THE PAYMENT FROM GENERAL RELIEF FUNDS OF THE CHARGES FOR EMERGENCY SERVICES WHEN RENDERED BY PHYSICIANS IN HOSPITAL EMERGENCY ROOMS, ON THE SAME BASIS AS GENERAL RELIEF FUNDS ARE CURRENTLY USED TO PAY FOR EMERGENCY SERVICES WHEN SUCH SERVICES ARE RENDERED IN PHYSICIANS' OFFICES, EFFECTIVE SEPTEMBER 1, 1976.

BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio, that the payment from General Relief Funds of the charges for emergency services when rendered by physicians in hospital emergency rooms, on the same basis as General Relief Funds are currently used to pay for emergency services when such services are rendered in physicians' office, effective September 1, 1976, be and is hereby approved.

BE IT FURTHER RESOLVED that the Clerk certify copy of this resolution to the County Auditor; Fiscal Coordinator; Welfare Department; Montgomery County Medical Society; Academy of Osteopathic Medicine, Dayton District; Children's Medical Center; Good Samaritan Hospital; Grandview Hospital; Kettering Medical Center; Miami Valley Hospital Society; and, St. Elizabeth Medical Center.

Mr. Lewis moved the adoption of the foregoing resolution. It was seconded by Mr. Wolfe, and upon call of the roll, the following vote resulted:

Mr. Lewis, aye; Mr. Wolfe, aye; Mr. Simms, No.: Carried.

2418

RESOLUTION NO. 2418  
JULY 29, 1976

RESOLUTION AUTHORIZING THE EXTENSION OF THE AGREEMENTS FOR THE DISPOSAL OF SOLID WASTES FROM THE INCINERATORS WITH SANITARY LANDFILL COMPANY AND LANDFILL SYSTEMS, INC. FROM JULY 29, 1976 THROUGH AUGUST 12, 1976.

WHEREAS, the following letter dated July 28, 1976, has been received from the Montgomery County Solid Waste Management Department:

"Re: Price Agreements for Landfill Services

Montgomery County will be advertising on July 30 and August 6, 1976, for sealed bids to establish a price agreement for the disposal of solid wastes which cannot be burned at the incinerators. Bids will be opened at your regular meeting of August 17, 1976.

Will you please pass a resolution extending our present contracts with the Sanitary Landfill Company and Landfill Systems, Inc., through August 12, 1976. These contracts expire July 29, 1976 and both landfills have agreed to the extension at existing prices.

It is estimated that each contract will be less than \$10,000.00 each.

/s/ Earnie S. Philpot  
Administrator"

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio, that the extension of the Agreements for the disposal of solid wastes from the Incinerators with Sanitary Landfill Company and Landfill Systems, Inc. from July 29, 1976 through August 12, 1976, be and is hereby authorized.

BE IT FURTHER RESOLVED that the Clerk certify copy of this resolution to the County Auditor, Solid Waste Management Department, Sanitary Landfill Company and Landfill Systems, Inc.

Mr. Lewis moved the adoption of the foregoing resolution. It was seconded by Mr. Wolfe, and upon call of the roll, the following vote resulted:

Mr. Lewis, aye; Mr. Wolfe, aye; Mr. Simms, aye: Carried.

2418

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio, that an increase in the Community Development Grant for the Moraine Iron Study (CD T7.35) from \$22,000.00 to \$25,000.00 be and is hereby authorized to cover additional contractual services. 108

BE IT FURTHER RESOLVED that the Clerk certify copy of this resolution to the County Auditor, Fiscal Management Specialist, Community Development Coordinator, Miami Valley Regional Planning Commission and the Sanitary Department.

Mrs. MacIlwaine moved the adoption of the foregoing resolution. It was seconded by Mr. Page, and upon call of the roll, the following vote resulted:

Mrs. MacIlwaine, aye; Mr. Page, aye; Mr. Wolfe, aye; Carried.

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109

RESOLUTION NO. 109  
JANUARY 11, 1977

RESOLUTION AUTHORIZING EMERGENCY DIVERSION OF SOLID WASTE FROM INCINERATOR TO SOUTH SANITARY LANDFILL, INC. AT A TOTAL COST NOT TO EXCEED \$10,000.00. MONEY TO COME FROM INCINERATOR REVENUE FUND, CODE P 45.1, LANDFILL EXPENSE.

WHEREAS, the following letter dated January 10, 1977, has been received from the Solid Waste Management Administrator:

"We wish to submit for your approval a request to divert the front end loaders and roll-offs to be landfilled rather than except them at the incinerator. We wish to do this for the next 30 days, not to exceed \$10,000.00 as allowed by law under emergency measures.

We have negotiated a price of \$1.50 per cubic yard from SCA - Powell Road Landfill and \$1.65 per cubic yard from IWD - South Sanitary Landfill, Inc.

It is the recommendation of this department that all front end loaders and roll-offs be diverted to the Powell Road Landfill at their low bid of \$1.50 per cubic yard. The diversion will only affect commercial and industrial haulers.

Money to come from Incinerator Revenue Fund, Code P 45.1, Landfill-Expense.

ESP:sb

/s/ Earnie S. Philpot,  
Administrator"

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio that emergency diversion of Solid Waste from Incinerator to South Sanitary Landfill, Inc., at a total cost not to exceed \$10,000.00 be and is hereby authorized. Money to come from Incinerator Revenue Fund, Code p 45.1, Landfill Expense.

BE IT FURTHER RESOLVED that the Clerk certify copy of said resolution to the Auditor and the Solid Waste Management Department.

Mrs. MacIlwaine moved the adoption of the foregoing resolution. It was seconded by Mr. Page, and upon call of the roll, the following vote resulted:

Mrs. MacIlwaine, aye; Mr. Page, aye; Mr. Wolfe, aye; Carried.

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1976 -

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Sandoval Baltazar barber Shanks Barber Shop r616 Salem Av  
" Everett M & Linda E; U S M C h4953 Westmoreland Ct (R)  
Apt D  
" John T & Marcella; analyst Monsanto (Miamisburg) h2336  
Colony Way (K)  
Sandra Price (Chez David Beauty Salon) r22 Country Manor La  
Sanda Bobby A & Shirley J; price analyst W P A F B h86  
Carmel Ct (C)  
" Cynthia L ofc sec Southern Ornamental Iron r4367 Parkway  
Dr (FM) Apt 5  
" Patricia (The Touching Place)  
" Robt W & Pauline; aasmblr Duriron-Valve h4828 Northcliff Dr  
(R)  
" Vernon W & Edna H; trainee Dayton Tire & Rubber (D)  
h4204 Molane St (FM)  
Sandstrom Carl E & Jeannette D; dist mgr Hughes Aircraft  
h5387 Oak Vista Pl (K)  
Sandt Hartley & Muriel; div mgr Price Bros (D) h621 Garden  
Rd (O)  
" Peter H studt r621 Garden Rd (O)  
" Richd studt r621 Garden Rd (O)  
Sandusky A O & Ruth P; asst mgr A&P h4130 Mapleleaf Dr  
(FM)  
" John C clk A&P Mkts r4130 Mapleleaf Dr (FM)  
Sandy Cleo L (Wid Paul F) ofc wkr W-P A F B h2258 Bataan  
Dr E (K)  
" J Steph & Christina M; phys M V Hoap h3115 E Stroop Rd  
(K)  
Sanford Cody L (Tuffy Mufflers-Brakes-Shocks) rVandalia Oh  
" Gordon L & Rachel P (Gordon Sanford Masonry Contr) h4342  
Byesville Blvd (M R Twp)  
" Gordon Masonry Contractor (Gordon L Sanford) 4342 Byesville  
Blvd (M R Twp)  
" Kenneth & Myrna; comptroller Dayton Tire & Rubber h9416  
Bonnie Anne Pl (C)  
" Pauline (Wid Clarence A) h6529 Calais Ct (W Twp)  
" Pauline Mrs nurse Bethany Luth Village rDayton Oh  
" Robt G & Mary K; prof U Of D h947 Oakcreek Dr (W Twp)  
" Rose Associates Charles Ong Dir personnel consultants 2600 Far  
Hills Av (O) Rm 15  
Sang John R treas Ziebart Rustproofing  
Sanger Dorothy E (Wid John B) prsr Imperial Clns & Lndry  
h206 Grand Av (T)  
" Douglas D & Linda L (T C Lubricants) (D) h17 Pleasant Av  
(T)  
" Gary R & Barbara; electn Globe Tool h4777 Pennswood Dr  
(HH)  
" Grover asst mgr Elbee Shoes rFairborn Oh  
" Jesse (Veterans Window Clns) r231 Garlough Av  
Stanley R tool mkr Globe Tool h4713 Passaic Ct (HH)  
Sanitary Landfill Co Ralph Jacomet Mgr dump 1855 Cardington  
Rd (K)  
Sanker Louis A & Betty L; programer W-P A F B (D) h5525  
Chatsworth Dr (HH)  
" Matt USA r5925 Chatsworth Dr (HH)  
" Steve studt r5925 Chatsworth Dr (HH)  
Sankey Margt K (Wid Edwin W) retd h21 Wonderly Av (O)  
Sanko Francis L & Linda M h1624 Briedweng Av (K)  
Sanktjohanser Manfred H & Dorothy; tool mkr Gem City Tool  
h6960 Shelcross Dr (HH)  
Sano Ann C aud 3d Natl Bank h5680 Coach Dr West (K) Apt B  
" Gerald M & Ute J; retd h2103 Milesburn Dr (M Twp)  
" Ronald Q press opr F Div h4375 Wilmington Pike (K) Apt D  
Sanoff Alvin P & Jane B; editor Journal Herald h2246 Cherry  
Oak Dr (K)  
San Rae Bakery Inc Willard B Bedwell Pres-Treas Howard K  
Kepler V. Pres 2222 San Rae Dr (K)  
" Beauty Salon (Kathleen Laurecella Sandra Linck) 2220 San Rae  
Dr (K)  
Sans Jim Realtors J(james J Sansabrino Jr) 3213 Wilmington  
Pike (K)  
Sansabrino James J Jr (Jim Sans Realtors) r2913 Rockledge Ter  
" Marian L ofc sec Jim Sans Realtors r2913 Rodsledge Ter  
Sansone Fredk P & Linda E; genl mgr Union Central Life Ins  
h414 Cedarleaf Dr (C)

ue L; retd h74 E Ridgeway Av (C)  
I T E Imperial rBellbrook Oh  
Mary R; mtecmn Borden Inc h1030 Harshman Rd  
Joan h6888 Brandt Pike (HH) Apt C  
h2828 Coronette Av (N)  
ra cook Bonnie Lee Tavern r4 Wainwright Dr  
Trilby; bodymn Rubicon Cadillac h1373 Falke Dr (M)  
Juanita; materialmn N C R (D) h3874 Kingswood  
Mary; mach opr DPD h7314 Greydale Dr (HH)  
Jane M; insp Dayton Tire & Rubber (D) h1133 N  
(T)  
aid The Ofc Cocktail Lounge rArbor Av  
lamn Rolandia Golf Center r3701 Woodman Dr (K)  
Goldie M; retd h4398 Lambeth Dr (HH)  
Terry h67 Nimitz Dr (M R Twp)  
Jennice; driver R & W Trucking Sys (Det Mich) h6  
rd St (T)  
p Dayton Showcase r3125 Bulah Av (K)  
Beverly; jwlr Belmont Jewelers h20 Hadley Av  
Big Valley Realty rMiddletown Oh  
91 Kreitzer Rd (M)  
Mrs h79 Bizzell Av (W Twp)  
Philomena A; insp D P D h1052 Eldorado Av (K)  
lamn John Hancock Mut Life Ins r111 Grafton Av  
h5700 Coach Dr West (K) Apt A  
s mgr Roadway Exp rDayton Oh  
Edna E; retd h2140 Los Arrow Dr (M Twp)  
Christine M; gatemn D P L h4437 Fargo Dr (M)  
Connie; slsmn R E Condit h3925 Leonora Dr (K)  
Greenhill Rd (H Twp)  
ean; plmb D M-Div (D) h4963 Shadwell Dr (FM)  
t r3874 Kingswood Dr (K)  
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r Boutique) r2512 E Dorothy La  
2238 E David Rd (K) Apt B  
ebra E; mach Riverside Tool & Die h3218  
St (K)  
emp NCR h515 Telford Av (K) Apt A  
tech M V Hoap r6848 Brandt Pike (HH) Apt C  
Kaufman's Florist r3701 Woodman Dr (K)  
Maple Av (C)  
irley M h2512 E Dorothy La (K)  
h (Wid Thurman F) h4116 Annapolis Av (FM)  
ithleen R; marketing coordinator Dap Inc h1337  
Dr (C)  
Maryann D; mfrs rep h5321 Bittersweet Dr (W)  
Ramona G (Clearview Window Clns) h1228 Hale  
r5321 Bittersweet Dr (W Twp)  
S Dale Elem Sch (K) h888 Revere Village Ct (C)  
16 Lambeth Dr (HH)  
Stotts Friedman Co  
r5321 Bittersweet Dr (W Twp)  
ofc mgr Professional Bkpg Serv rXenia Oh  
r & Stella J; lab City Recreation Dept (D) h4703  
lvd (M R Twp)  
M; furnace opr D P D (D) h2230 Kajean Av (M)  
Ct (M)  
y wkr Dayton Press r3568 Waterbury Dr (K)  
Georgia L; fcty wkr D P D h5005 Pensacola Blvd  
wkr S R Co h3568 Waterbury Dr (K)  
d C Jr & Marilyn I; sls eng D P D (D) h5361  
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# MONTGOMERY COUNTY

MONTGOMERY COUNTY ADMINISTRATION BUILDING  
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DAYTON, OHIO 45422-1110

COUNTY COMMISSIONERS  
Charles J. Carran  
Paula J. Macfadyen  
Dennis B. Moon  
COUNTY ADMINISTRATOR  
Claude D. Malone, Jr.

August 4, 1987

Mr. Steve Stanley  
Manager, Corporate Development  
B.G. Danis Industries  
2 Riverplace, Suite 400  
P.O. Box 1510  
Dayton, Ohio 45401

RE: Your Request For Information on the Amount of Usage  
of the Cardington Road Landfill from 1972 through 1980

Dear Steve:

I have attached a copy of a memorandum to Tom Black from Bob Woerner regarding this matter. As you can see, we don't have any official records covering this period.

I can give you only the crudest estimates of how much we used the Cardington Landfill during that period. My guesses are as follows:

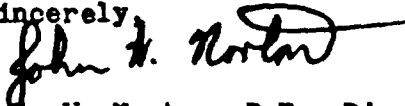
<u>Year</u>	<u>Estimated Tonnage to Cardington Landfill</u>
1972	0
1973	45,000 Tons
1974	5,000 Tons
1975	0
1976	0
1977	6,000 Tons
1978	20,000 Tons
1979	150,000 Tons
1980	0 (Closed)

As you can see this is the crudest of estimates -- I am drawing on my own understanding of the history of that period of time. As I understand it in 1973 a project was initiated to substantially rebuild some of the incinerator mechanisms and at that time they bought the three transfer trailers and instituted a program of transferring trash to the landfill. That project was completed during 1974; and I cannot be sure at all whether they transferred any trash during the period from that point until I arrived on the scene in 1978.

Mr. Steve Stanley  
August 4, 1987  
Page Two

I'm sorry I can't be much more helpful.

Sincerely,

A handwritten signature in dark ink, appearing to read "John W. Norton". The signature is fluid and cursive, with a large, sweeping initial "J" and a long, horizontal flourish extending to the right.

John W. Norton, P.E., Director  
Solid Waste Management Department

JWN:baw

Attachment

cc: David A. Coble, South Incinerator Plant Manager  
Thomas Black, Administrative Services

# Memorandum



TO: Thomas G. Black  
Superintendent, Administrative Services

FROM: Robert Woerner, Accountant III *RW*

DATE: July 31, 1987

SUBJECT: Cardington Road Landfill

John Norton has recently received a request from Danis Industries that we supply information regarding the tons of refuse that was shipped to the Cardington Road Landfill from 1972-1980.

As you are aware, our records are kept until a state audit is performed. At this time, the last state audit of our records was conducted for the year 1985. As such, records for the year 1985 and prior have now been destroyed.

Given the above, the Accounting Department has no capability to provide the requested information for the time span indicated.

cc: John Norton



# MONTGOMERY COUNTY

MONTGOMERY COUNTY ADMINISTRATION BUILDING  
481 WEST THIRD STREET  
DAYTON, OHIO 45422

COUNTY COMMISSIONERS  
Charles J. Carter  
Paul J. Blodgett  
Dennis B. Dean  
COUNTY ADMINISTRATOR  
Claude B. Malone, Jr.

December 13, 1985

Shirley Dorsey  
U.S. EPA - Region V  
Waste Management Division  
Hazardous Waste Enforcement Branch  
CERCLA Enforcement Section  
230 South Dearborn Street  
Chicago, Illinois 60604

RE: Powell Road Landfill Site  
PRP List  
Montgomery County North Reduction Plant Involvement

*Steve,  
Our position on  
Cardington Rd would  
be identical to this  
for Powell Rd.  
John*

Dear Ms. Dorsey:

In 1970 Montgomery County undertook the disposal of most of the municipal residential refuse for Montgomery County. It did this primarily through the operation of two new incineration facilities -- the North Reduction Plant, and the South Reduction Plant; commonly referred to as the North and South Incinerators. Over the next fifteen years, Montgomery County operated these two plants and incinerated most of the community's municipal refuse.

However, from time to time the generation of solid waste would exceed the capacity of these two municipal incinerators, and Montgomery County would have to turn away trash from the plants gates.

This diverted trash was usually then transported in the route collection truck to one of several landfills located in and around Montgomery County for disposal. Due to contractual commitments which Montgomery County had with various communities within its district, Montgomery County would pay for the disposal of the trash so diverted from the incinerators at the landfill. Periodically, Montgomery County would request bids for price agreements from various licensed landfills for such disposals.

In addition, beginning in 1973, Montgomery County purchased and operated some over-the-road solid waste transfer semi-tractor trailers. During the period from 1973 on, Montgomery County transferred some of this solid waste from the incinerators to various landfills such as Powell Road in order to minimize wear and tear and expense on the route collection vehicles. The route collection vehicles using the county facilities are both publicly and privately owned and operated by perhaps 25 different agencies.

M. Shirley Dorsey  
December 13, 1985  
Page Two

However, at no time did Montgomery County undertake the disposal of wastes which your agency now defines as "hazardous". I have attached for your review copies of pertinent sections from our County Solid Waste "Rules and Regulations". As you will note large quantities of solvents and other industrial by-products are not accepted as part of the Montgomery County refuse disposal program.

We are pleased that your agency is making a thorough review of the circumstances and hazards presented by the Powell Road Landfill (and others within Montgomery County). Montgomery County is not accepting the responsibility for performing "the work required to abate any releases or threatened releases of hazardous substances, pollutants, and contaminants from the site." We are not of the opinion that we are one of the "potentially responsible parties" regarding this pollution source.

We are reviewing our records for information regarding our deliveries to the subject site. Upon review as to the applicability of this information and review by our administration, the material will be submitted to your agency under this request. Primarily, it will consist of contracts or price agreements for cubic yards of municipal waste and the number of yards delivered and the approximate dates of the period of the activity. Nothing other than municipal solid waste was ever directed to those sites used by the Montgomery County Solid Waste Management District.

If you have any specific questions regarding this information, you may contact Mr. Thomas A. Saygers, P.E., Director of the Sanitary Engineering Department; John W. Norton, P.E., of our Solid Waste Management Division at 513/225-4873; or our attorneys in the Civil Section of the Prosecutors Office, Chris Van Schaik and Ken Pohlman at 513/225-5607.

Sincerely,

Claude D. Malone, Jr.  
County Administrator

CDM:bas

Attachment

cc: Board of County Commissioners  
Chris Van Schaik  
Thomas A. Saygers, P.E.



RESOLUTION NO. 2038  
JULY 29, 1975

2038

RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO ISSUE A WARRANT IN THE AMOUNT OF \$4,250.00 PAYABLE TO MIAMI CONSERVANCY DISTRICT FOR MONTGOMERY COUNTY SHARE IN THE SUPPORT FOR PHASE SIX, REGIONAL WATER QUALITY PROGRAM.

WHEREAS, the following letter, dated July 25, 1975, has been received from the Sanitary Department:

"This office is in receipt of an invoice in the amount of \$4,250.00 from the Miami Conservancy District. This is the Montgomery County share in the support for Phase Six, Regional Water Quality Program, as adopted by the Miami Conservancy District Court.

Charges are as follows:

Moraine Sewer District STP - Item No. 30.....	\$4,000.00
North Incinerator - Item No. 83.....	250.00
	<u>\$4,250.00</u>

If the above meets with the approval of your Honorable Board will you please authorize the Auditor to issue a warrant for the above amount payable to Water Conservation Subdistrict of the Miami Conservancy District. Like amounts will be charged in January 1976 and 1977.

Money is to come from Greater Moraine Beaver Creek Sewer Revenue Fund, Code P-15, Other Expense for the \$4,000.00 charge and from Incinerator Revenue Fund, Code P-45, Other Expense for the \$250.00.

/s/ Earnie S. Philpot, Administrator  
/s/ Dwain Bussard, Comptroller"

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio, that the County Auditor be and hereby is authorized to issue a warrant in the amount of \$4,250.00 payable to Miami Conservancy District for Montgomery County Share in the support for Phase Six, Regional Water Quality Program. Money is to come from Greater Moraine Beaver Creek Sewer Revenue Fund Code P-15, Other Expense for the \$4,000.00 and from Incinerator Revenue Fund, Code P-45, Other Expense for the \$250.00.

BE IT FURTHER RESOLVED that the Clerk certify copy of said resolution to the Auditor, Treasurer, County Administrator, Sanitary Department and to the Co-ordinator of Fiscal Affairs.

Mr. Wolfe moved the adoption of the foregoing resolution. It was seconded by Mr. Simms and, upon call of the roll, the following vote resulted:

Mr. Wolfe, aye; Mr. Simms, aye; Mr. Cloud, aye; Carried.

RESOLUTION NO. 2039  
JULY 29, 1975

2039

RESOLUTION APPROVING RECOMMENDATION OF EARNIE S. PHILPOT, ADMINISTRATOR, SANITARY DEPARTMENT, AND AWARD THE CONTRACTS FOR LANDFILL CHARGES TO BOTH BIDDERS, (DUE TO CONVENIENT LOCATION OF BIDDERS), TO THE SANITARY LANDFILL COMPANY AT THEIR BID PRICE OF \$1.75 PER CUBIC YARD AND TO LANDFILL SYSTEMS, INC. AT THEIR BID PRICE OF \$1.50 PER CUBIC YARD.

WHEREAS, the following letter, dated July 25, 1975, has been received from the Sanitary Department:

"We have reviewed the bids received July 22, 1975, for landfill charges in the event of emergencies.

Sanitary Landfill Company Cardington Drive Dayton, Ohio	\$1.75 per cubic yard
---	-----------------------

Landfill Systems, Inc. Powell Road Dayton, Ohio	\$1.50 per cubic yard
---	-----------------------

Due to a breakdown at the South Incinerator we have been diverting haulers to both sites since Tuesday, July 22, 1975.

2039 We are recommending that both sites be awarded a contract even though one is higher than the other. The \$1.75 per cubic yard landfill is located very close to the South Incinerator and is still less costly due to the extra time and hauling distance for our transfer trucks.

2039 If both sites are approved we can divert the trucks from the North Plant to Landfill Systems, Inc. on Powell Road and divert trucks from our South Plant to Sanitary Landfill Co. on Cardington Drive.

If the above meets with your approval will you please request the Prosecuting Attorney's office to prepare contracts

/s/ Earnie S. Philpot, Administrator"

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio, that recommendation of Earnie S. Philpot, Administrator, Sanitary Department be and hereby is approved and the contracts for Landfill Charges hereby is awarded to both bidders, (due to convenient location of bidders) to the Sanitary Landfill Company at their bid of \$1.75 per cubic yard and to Landfill Systems, Inc. at their bid of \$1.50 per cubic yard.

BE IT FURTHER RESOLVED that the Clerk certify copy of said resolution to the Auditor, Sanitary Department, and to the Prosecuting Attorney's Office.

Mr. Wolfe moved the adoption of the foregoing resolution. It was seconded by Mr. Simms and, upon call of the roll, the following vote resulted:

see next page for Agreement

Mr. Wolfe, aye; Mr. Simms, aye; Mr. Cloud, aye; Carried.

2040

RESOLUTION NO. 2040  
JULY 29, 1975

RESOLUTION APPROVING RECOMMENDATION OF PURCHASING AGENT AND AWARD THE BID FOR CLEANING THE CARPET AT THE ADMINISTRATION BUILDING, COUNTY COURTS BUILDING, FAMILY COURT CENTER, CORONER'S OFFICE AND THE COUNTY JAIL TO THE CLEAN CITY JANITOR SERVICE AT THEIR LOW BID OF \$5,142.65

WHEREAS, the following letter, dated July 23, 1975, has been received from the Purchasing Agent:

"The Montgomery County Purchasing Department recommends that the Bid on Carpet Cleaning for the Administration Building, County Courts Building, Family Courts Center, Coroner's Office, and the County Jail, be awarded to Clean City Janitor Service at their low bid of \$5,142.65.

/s/ Al Florio, Purchasing Agent"

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio, that the recommendation of the Purchasing Agent be and is hereby approved and the bid for cleaning the carpet at the Administration Building, County Courts Building, Family Courts Center, Coroner's Office and the County Jail be awarded to the Clean City Janitor Service at their low bid of \$5,142.65 as indicated above.

BE IT FURTHER RESOLVED that the Clerk certify copy of said resolution to the Auditor, and to the Purchasing Agent.

Mr. Simms moved the adoption of the foregoing resolution. It was seconded by Mr. Wolfe and, upon call of the roll, the following vote resulted:

Mr. Simms, aye; Mr. Wolfe, aye; Mr. Cloud, aye; Carried.

*Concise Copy*

REFER TO RESOLUTION NO. 2039  
DATED JULY 29, 1975

AGREEMENT

THIS AGREEMENT made and entered into at Dayton, Ohio, by and between THE BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO, hereinafter called the "Board", and SANITARY LAND-FILL COMPANY of 1855 Cardington Road, P. O. Box 1325, Dayton, Ohio, 45401, hereinafter called the "Contractor",

WITNESSETH:

2039

WHEREAS, it has been determined that there is a necessity for landfilling waste from the Incinerators in the event of a major breakdown or other emergency at said Incinerators and to establish a cost per cubic yard for said services:

The Contractor shall:

1. Provide landfilling services for use by the "Board" at \$1.75 per cubic yard, for a period of one year from the bid award date of July 29, 1975; the aggregate amount for said services shall not exceed \$350,000.00.
2. Not assign all or any part of this Agreement without prior written approval of the "Board" or its representative.
3. Hold the "Board" harmless from all loss, cost or damage on account of injury to persons or property occurring in the furnishing of said services.
4. Deliver to the "Board" releases or waivers in due form of law, of all claims, liens or claims for liens of sub-contractors, laborers or materialmen, and of all other persons, firms, associations and corporations which may have performed any labor, or furnished any material or equipment under or in connection with the performance of this Agreement.

5. The "Board" shall pay the "Contractor" at the rate of \$1.75 per cubic yard for landfilling services provided, upon receipt of an invoice from said "Contractor".

IN WITNESS WHEREOF, the parties have hereunto set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

2039

WITNESS:

THE BOARD OF COUNTY COMMISSIONERS  
OF MONTGOMERY COUNTY, OHIO

Heleen Gillyman  
Mary K. Lenz

Ray W. [Signature]  
[Signature]

CONTRACTOR'S WITNESSES:

SANITARY LANDFILL COMPANY

Ray K. Davis  
Dennis R. Martel

[Signature]  
By [Signature]  
PRESIDENT

Its  
2475 WAGNER FARM RD, Box 1453  
DAYTON OHIO 45414  
Address

APPROVED AS TO FORM:

[Signature]  
Lillian M. Kern, Assistant  
Prosecuting Attorney

Re 2039

Estimated cost is \$2,800.00.

3101

/s/ Al Florio  
Purchasing Director"

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio, that the Purchasing Agent be and is hereby authorized to solicit bids for one (1) High Speed Check Signer for the Montgomery County Auditor's Department, with trade-in. Estimated Cost \$2,800.00. Money to come from code 4B17.2. Bids will be received until 9:30 A.M., November 2, 1976.

BE IT FURTHER RESOLVED that the Clerk certify copy of said resolution to the Purchasing Agent and the Auditor's Office.

Mr. Wolfe moved the adoption of the foregoing resolution. It was seconded by Mr. Lewis, and upon call of the roll, the following vote resulted:

Mr. Wolfe, aye; Mr. Lewis, aye; Mr. Simms, absent. Carried.

RESOLUTION NO. 3109  
SEPTEMBER 28, 1976

3109

RESOLUTION AUTHORIZING THE COUNTY AUDITOR TO TREAT \$271,351.00 AS A FINAL PAYMENT AGAINST CERTIFICATE NO. 363, LANDFILL SYSTEMS, INC. CONTRACT, AND RETURN THE UNUSED BALANCE (\$78,649.00) TO THE UNENCUMBERED MONEY WITHIN CODE P-45.1 AND TO INCREASE CERTIFICATE NO. 362, SANITARY LANDFILL COMPANY TO \$426,000.00. MONEY TO COME FROM INCINERATOR REVENUE FUND, CODE P-45.1, LANDFILL EXPENSE.

WHEREAS, the following letter dated September 24, 1976, has been received from the Montgomery County Solid Waste Management department:

"Re: Encumbrance of monies in Incinerator Revenue Fund,  
Code P-45.1, Landfill Expense

\$700,000.00 was appropriated to pay the landfill expenses for the year 1976.

Certificate #362 Sanitary Landfill Company, \$350,000.00 and Certificate #363, Landfill Systems Incorporated \$350,000.00 were issued to encumber the \$700,000.00 appropriation.

After eight (8) months experience, plant shutdown, etc., we find that the actual invoices from Landfill Systems Incorporated will be \$271,351.00 and \$421,801.93 from the Sanitary Landfill Company.

Please authorize the County Auditor to treat the \$271,351.00 as a final payment against certificate #363 returning the unused balance to the unencumbered money within Code P-45.1.

Also authorize the County Auditor to increase Certificate #362 to \$426,000.00, so increase of \$76,000.00.

The money to come from the unencumbered balance in Incinerator Revenue Fund, Code P-45.1, Landfill expense.

/s/ Earnie S. Philpot  
Administrator"

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio, that the County Auditor be and is hereby authorized to treat \$271,351.00 as a final payment against Certificate No. 363, Landfill Systems, Inc. contract, and return the unused balance (\$78,649.00) to the unencumbered money within Code P-45.1 and to increase Certificate No. 362, Sanitary Landfill Company to \$426,000.00. Money to come from Incinerator Revenue Fund, Code P-45.1, Landfill Expense.

BE IT FURTHER RESOLVED that the Clerk certify copy of this resolution to the County Auditor and Solid Waste Management.

Mr. Wolfe moved the adoption of the foregoing resolution. It was seconded by Mr. Lewis, and upon call of the roll, the following vote resulted:

Mr. Wolfe, aye; Mr. Lewis, aye; Mr. Simms, absent: Carried.

RESOLUTION NO. 2610  
AUGUST 17, 1976

2610

RESOLUTION AMENDING RESOLUTION NO. 2418, DATED JULY 29, 1976,  
CHANGING THE DATE FOR EXTENDING OUR PRESENT LANDFILL CONTRACTS,  
FROM AUGUST 12, 1976 TO AND THROUGH AUGUST 17, 1976.

WHEREAS, the following letter dated August 9, 1976, has been  
received from the Solid Waste Management:

"Re: Extension of Landfill Contracts

Would you please amend Resolution No. 2418, dated July 29,  
1976. The Resolution ask that our present Landfill Contracts be  
extended through August 12, 1976. Please amend to read "Extend  
our present Landfill Contracts through August 17, 1976".  
August 12, 1976 was a typographical error.

/s/ Earnie S. Philpot,  
Administrator"

ESP:sb

NOW, THEREFORE, BE IT RESOLVED by the Board of County  
Commissioners of Montgomery County, Ohio, that Resolution No. 2418,  
dated July 29, 1976, be and is hereby amended changing the date  
for extending our present Landfill Contracts, from August 12, 1976  
to and through August 17, 1976.

BE IT FURTHER RESOLVED that the Clerk certify copy of said  
resolution to the County Auditor and the Solid Waste Management.

Mr. Lewis moved the adoption of the foregoing resolution. It  
was seconded by Mr. Wolfe, and upon call of the roll, the following  
vote resulted:

Mr. Lewis, aye; Mr. Wolfe, aye; Mr. Sinms, aye; Carried.

RESOLUTION NO. 2610A  
AUGUST 17, 1976

2610A

RESOLUTION AMENDING RESOLUTION 2610, DATED AUGUST 17, 1976,  
CHANGING THE DATE FOR EXTENDING THE PRESENT LANDFILL CONTRACTS,  
FROM AUGUST 17, 1976 TO AUGUST 19, 1976.

BE IT RESOLVED by the Board of County Commissioners of  
Montgomery County, Ohio, that Resolution No. 2610, dated  
August 17, 1976, be and is hereby amended changing the date for  
extending the present Landfill Contracts, from August 17, 1976  
to August 19, 1976.

BE IT FURTHER RESOLVED that the Clerk certify copy of said  
resolution to the County Auditor and the Solid Waste Management.

Mr. Lewis moved the adoption of the foregoing resolution. It  
was seconded by Mr. Wolfe, and upon call of the roll, the following  
vote resulted:

Mr. Lewis, aye; Mr. Wolfe, aye; Mr. Lewis, aye; Carried.

RESOLUTION NO. 2611  
AUGUST 17, 1976

2611

RESOLUTION AUTHORIZING 80% PERFORMANCE BOND RELEASE COVERING  
IRONGATE FARM, SECTION FOUR, GREATER NORTHRIDGE SEWER DISTRICT.

PRINCIPAL: HAROLD HAER BUILDING COMPANY  
SURETY : TRINITY UNIVERSAL INSURANCE COMPANY

WHEREAS, the following request dated August 5, 1976, has  
been received from the Montgomery County Sanitary Department:

"Re: Irongate Farms, Section Four  
Greater Northridge Sewer District



# MONTGOMERY COUNTY

MONTGOMERY COUNTY ADMINISTRATION BUILDING  
451 WEST THIRD STREET  
DAYTON, OHIO 45422-1110

COUNTY COMMISSIONERS  
Charles J. Curran  
Paula J. Macfarlane  
Donna B. Moon

COUNTY ADMINISTRATOR  
Claude D. Malone, Jr.

March 28, 1988

*Coble*

*How are you  
doing on this?*

*ph*

Kenneth R. Pohlman  
Assistant Prosecuting Attorney  
Montgomery County Courts Bldg.  
41 N. Perry Street  
Dayton, Ohio 45402

RE: Cardington Road Landfill/USEPA Information Request

Dear Ken:

It was good that you, Dave Coble, Jack Whitesell and I got together on March 22, 1988 to discuss the US EPA request for information about the Cardington Road Landfill. This letter is intended to confirm my request to you at that time.

1. You should ask for a time extension from the US EPA. With our attention focused on the completion and start-up of our incinerators, we cannot prepare these answers for the US EPA within the 30 days they requested. While Dave Coble will focus every spare minute on this project, it will take lengthy effort from he, Jack Whitesell, and Betty Ann Walker to prepare the thousands of copies necessary.

I suggest that you ask for an additional 30 days. Since this appears to be a rather routine request for information, there is probably no great need for them to receive the information within the 30 day time period they routinely allocated.

2. They have requested thousands of copies from our files. During a similar disclosure request (precipitated by the Danis proceedings against the fix of the South Incinerator), we requested twenty-five cents per copy. This was authorized via a resolution. You must ask the US EPA to pay this twenty-five cent per copy fee, as the level of effort and number of copies is immense.
3. As an alternate, I suggest that you tell the US EPA that our files are available for their inspection and that we will be happy to assist and make copies (for the twenty-five cent charge.) With this in mind, they can reduce substantially the number of copies which they are blindly requesting (in hopes, perhaps, of uncovering a sizeable hazardous waste disposal plot.)

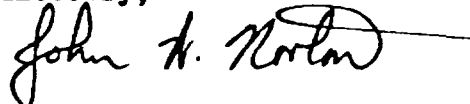
Kenneth Pohlman  
March 29, 1988  
Page Two

4. I strongly urge that the requested interviews (of persons no longer employed by the County) be done by the Prosecutor's staff. The US EPA has clearly requested that these interviews be "in the form of a notarized affidavit"--with five pages of instructions, definitions, and legal citations to follow. I think this matter should be given the serious attention of a lawyer. The staff of the Solid Waste Management Department is not skilled in the practice of law. This task seems to require such skill.

This information request from the US EPA appears to be a "shotgun approach" to information gathering. Many of their questions are obviously intended to find situations where hazardous waste materials were given to the "Midnight Dumper." This is another reason to suggest to the US EPA that our files are open to them and that they should send somebody who understands the problem over to review the files in the company of Betty Ann Walker. (See suggestion No. 3 above)

I understand your desire to respond as quickly as we can to this request, but you must keep in mind that this is only one of three large requests for information that I have received from the EPA during March. (On March 4th I received 40 pages of proposed revisions to Chapter 3745-31 of the Administrative Code which deals with our new units and their permitting requirements. They asked that we review these and comment. On March 7th, I received a 44 page questionnaire regarding our incinerator operations. This was accompanied by approximately 40 pages of instructions and legal citations regarding that matter.) In addition, of course, we have the day to day operation of the existing facilities for which we are not overmanned. With this in mind, I ask for an extension for the preparation of this requested information. We cannot meet the April 14th deadline.

Sincerely,



John W. Norton, P.E., Director  
Solid Waste Management Department

JWN:mj

cc: Claude D. Malone, Jr.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

MAR 6 1988

REPLY TO THE AGENCY  
5HE-12

RECEIVED

MAR 14 1988

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

MONTGOMERY COUNTY BOARD OF COMMISSIONERS  
COUNTY ADMINISTRATIVE BUILDING  
451 WEST 3RD STREET  
DAYTON, OH 45402  
DONALD J. MACILWAIN, PRESIDENT

MONTGOMERY CITY COMMISSIONER  
PAULA J. MACILWAIN

Re: Request for Information Pursuant to Section 104(e) of CERCLA  
and Section 3007 of RCRA, for Sanitary Landfill Company Site,  
1855 Cardington Road, Moraine, Ohio hereinafter referred  
to as "the Site"

Dear Sir:

The United States Environmental Protection Agency (U.S. EPA) is currently investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants at the Sanitary Landfill Company Site, 1855 Cardington Road, Moraine, Ohio. This investigation requires inquiry into the generation, storage, treatment and disposal of such substances that have been or threaten to be released at the Site. U.S. EPA is also investigating the ability of persons connected with the Site, to pay for or perform a clean-up of the Site.

Pursuant to the authority of Section 104(e) of the Comprehensive, Environmental, Response Compensation and Liability Act (CERCLA), 42 U.S.C. §9604(e), amended by Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, and pursuant to Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6927, you are hereby requested to respond to the Information Requests enclosed. Compliance with the enclosed Information Requests is mandatory. Failure to respond fully and truthfully to each and every Information Request within 30 days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by U.S. EPA pursuant to Section 3008 of RCRA under which U.S. EPA may seek the imposition of penalties of up to \$25,000 for each day of continued noncompliance, and/or pursuant to Section 104(e)(5) of CERCLA which, as amended, authorizes the United States to seek penalties from a federal court of up to \$25,000 for each day of continued non-compliance. "Noncompliance" is considered by U.S. EPA to be not only failure to respond to the Requests but also failure to respond completely and truthfully to each Request. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties of up to \$10,000 or up to 5 years of imprisonment or both under 18 U.S.C. §1001.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

Your response to this Information Request should be mailed to the following:

Ruth Mancos  
U.S. Environmental Protection Agency, 5HE-12  
230 South Dearborn Street  
Chicago, Illinois 60604

If you have any legal questions, please direct such questions to Ms. Deborah Garber of the Office of Regional Counsel, at (312) 886-6610. If you have any technical questions, please direct such questions to Ken Tindall, Remedial Project Manager at (312) 886-9895.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond promptly and properly, U.S. EPA strongly encourages you to give this matter your immediate attention and to respond to these Information Requests within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,



*for* Mary A. Gade, Acting Chief  
Emergency and Remedial Response Branch

Enclosure

Sanitary Landfill Company, Moraine, Ohio

Generator Information Requests

Instructions

1. A separate response must be made to each of the questions set forth in this Information Request.
2. Precede each answer with the number of the Information Request to which it corresponds.
3. In answering each Information Request, identify all contributing sources of information.
4. If information is not known or is not available to the respondent as of the date of submission of his/her response, should information later become known by or available to the respondent, respondent must supplement its response to U.S. EPA. Moreover, should the respondent find, at any time after the submission of its response that any portion of the submitted information is false or misrepresents the truth, respondent must notify U.S. EPA thereof as soon as possible.
5. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it responds.
6. You must respond to the Information Requests on the basis of all information and documents in your possession, custody or control or in the possession, custody or control of your former or current employees, agents, servants, contractors or attorneys. Furnish such information as is available to you, regardless of whether or not it is based on personal knowledge, and regardless of source.
7. Your response should be accompanied by a notarized affidavit from a responsible company official or representative stating that a diligent record search has been completed and that there has been a diligent interviewing process with present and former employees who may have knowledge of the operations, hazardous substance use, storage, treatment, disposal or other handling practice of the Respondent between 1965 to present. To the extent that any information you provide relating to these Requests is based on your personal knowledge, or the personal knowledge of your employees, agents, or other representatives, this information shall be in the form of a notarized affidavit.
8. If any documents requested herein have been transferred voluntarily or involuntarily to others or have been otherwise disposed of, identify each such document, identify the person to whom it was transferred, describe the circumstances surrounding such transfer or other disposition, and state the date or approximate date of such transfer or other disposition.

9. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. §2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. [See 41 Federal Register 36902 et seq. (September 1, 1976); 43 Federal Register 4000 et seq. (September 8, 1978); 50 Federal Register 51654 et seq. (December 18, 1985).] If no such claim accompanies the information when it is received by the U.S. EPA, it may be made available to the public by the U.S. EPA without further notice to you. You should read carefully the above-cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim, as stated in Section 104(e)(7)(ii) of CERCLA.

#### Definitions

For the purpose of the Instructions and Requests for Information set forth herein, the following definitions shall apply:

1. The term "you" or "respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, successors, assigns, and agents.
2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. "The Site" or "the Facility" shall mean and include the property on or about the Landfill.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, including mixtures of hazardous substances with other substances including petroleum products.
5. The term, "pollutant" or "contaminant", shall have the same definition as that contained in Section 101(33) of CERCLA.
6. The terms, "furnish," "describe," or "identify" or "indicate," shall mean turning over to the U.S. EPA either original or duplicate copies of the requested information in the possession, custody, or control of the Respondent. Where specific information has not been memorialized in any document but is nonetheless responsive to an information request, you must respond to the request with a written response. If such requested information is not in your possession, custody, or control then indicate where such information or documents may be obtained.

7. The term "identify" means, with respect to a natural person, to set forth his full name, present or last known business address, the name of that employer and a description of the job responsibilities of such person.
8. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (e.g. corporation, partnership, etc.), organization, if any, and a brief description of its business.
9. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
10. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant).
11. "Transaction" means every separate act, deal, instance, or occurrence.
12. As used herein, "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting (including by the way of illustration and not by way of limitation), any invoice, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, video tape or other type of memory); including (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like of it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.
13. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these information requests any information which might otherwise be construed to be outside their scope.

Requests

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.
4. List the EPA Identification Numbers of the Respondent.
5. Identify the acts or omissions of any persons, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants and damages resulting therefrom.
6. Identify all liability insurance policies held by Respondent from 1965 to present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, nonsudden or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.
9. Identify all persons, including yourself, who may have arranged for disposal or treatment or arranged for transportation for disposal or treatment for disposal or treatment of waste materials, including hazardous substances, at the Site or to the Site. In addition, identify the following:
  - a. The persons with whom you or such other persons made such arrangements;
  - b. Every date on which such arrangements took place;
  - c. For each transaction, the nature of the waste material or hazardous substance, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the substance was used or the process which generated the substances;
  - d. The owner of the waste materials or hazardous substances so accepted or transported;

*Juanita Hume  
at El Estero*

- e. The quantity of the waste materials or hazardous substances involved (weight or volume) in each transaction and the total quantity for all transactions;
- f. All tests, analyses, and analytical results concerning the waste materials;
- g. The person(s) who selected the Site as the place to which the waste materials or hazardous substances were to be transported;
- h. The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;
- i. Where the person identified in g., above, intended to have such hazardous substances or waste materials transported and all evidence of this intent;
- j. Whether the waste materials or hazardous substances involved in each transaction were transshipped through, or were stored or held at, any intermediate site prior to final treatment or disposal;
- k. What was actually done to the waste materials or hazardous substances once they were brought to the Site;
- l. The final disposition of each of the waste materials or hazardous substances involved in such transaction;
- m. The measures taken by you to determine the actual methods, means, and site of treatment or disposal of the waste materials and hazardous substance involved in each transaction;
- n. The type and number of containers in which the waste materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the Site, and all markings on such containers;
- o. The price paid for (i) transport or (ii) disposal or (iii) both of each waste material and hazardous substance;
- p. All documents containing information responsive to a.-p. above, or in lieu of identification of all relevant documents, provide copies of all such documents; and
- q. All persons with knowledge, information, or documents responsive to a.-p., above.

**LEE C. FALKE**  
**PROSECUTING ATTORNEY**  
**MONTGOMERY COUNTY**  
**OHIO**

LEE C. FALKE  
Prosecuting Attorney  
3rd Floor  
Montgomery County Courts Building  
41 North Perry Street  
Dayton, Ohio 45402  
(513) 225-5757

March 25, 1988

DENNIS J. LANGER  
First Assistant  
HERBERT M. JACOBSON  
Chief Trial Counsel  
TRIAL COUNSEL  
Mathias H. Heck, Jr.  
John M. Stevens

**CRIMINAL DIVISION**

James M. Connell  
James R. Levinson  
Angela Frydman  
Helen O. Evans  
James D. Cole  
Robert B. Coughlin  
Terrence L. Seeberger  
Linda L. Howland  
Laurence A. Lasky  
William F. Randolph  
George B. Patricoff  
Leon J. Daidone  
David M. Franceschelli  
Frances McGee  
Alan D. Gabel  
Patrick Mulligan  
Sandra K. Hobson  
Carl S. Henderson  
William O. Cass  
Gregory J. Corbin  
J. David Turner  
William E. Fischer  
Paul A. Foltas

**GRAND JURY/INTAKE DIVISION**

Andrew J. Niekamp

**CIVIL DIVISION**

Chris R. VanSchalk  
William H. Wolff, Sr.  
Kenneth R. Pohlman  
William P. Butterfield  
Thomas G. Rauch  
John F. Krumholz  
Michael Russell  
Sharon L. Ovington  
Victor T. Whisman  
James E. Rambo

**JUVENILE COURT**  
225-4253

Debra Bonifas Armanini  
Grant L. Wadsworth  
Joyce C. Adams  
Michael A. Hochwalt  
Richard D. Hanes

**APPELLATE DIVISION**  
225-4117

Ted E. Millspaugh  
Walker F. Ruf  
Carley Jean Ingram  
Mark B. Robinette

**VICTIM/WITNESS DIVISION**

223-8085  
Mary Brooks

**CONSUMER FRAUD DIVISION**

Robert A. Skinner  
Terrence L. Seeberger  
James L. Morford

**INVESTIGATORS**

Donald R. Otto  
John R. Fudge  
Steven W. Longo

Bernice Rappaport  
Gregg G. Findlay  
Mike Ratcliff  
Administrative Assistants

Mr. David A. Coble  
South Incinerator Plant Manager  
Montgomery County, Ohio  
451 West Third Street  
Dayton, Ohio 45422

Re: Cardington Road Landfill  
U.S.E.P.A. Information Request  
Dated March 14, 1988

Dear Dave:

Per your request, enclosed is a copy of Section 101 (14) and (33) of CERCLA.

Please prepare an historical report addressed to me as an attorney, about all the information that you learned with respect to your inspection of the business records by and between Montgomery County and the Cardington Road Landfill and its predecessor.

In all likelihood, you will want to obtain the first and second generation of contracts between Montgomery County and the various cities for the disposal of garbage by incineration or, as in this case, for necessary disposal at the Cardington Road Landfill. Check with the Clerk of the B.C.C., Juanita Hunn, who should have this on microfilm.

Next, can you document either by invoices, checks or your records, and advise me what amounts of garbage the various cities diverted directly to the Cardington Road Landfill from the years 1970 through 1979 or when the Landfill closed; and what amount Montgomery County itself transferred to the Cardington Road Landfill and from where the garbage originated, even though under both circumstances the County ultimately paid for the disposal of the garbage.



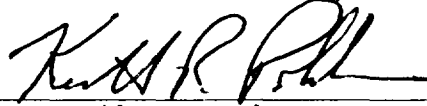
Mr. David A. Coble  
March 25, 1988  
Page Two

Lastly, keep organized files on all papers  
and documents that you retrieve in your search.

Any questions, please call me.

Sincerely,

LEE C. FALKE, PROSECUTING ATTORNEY  
FOR MONTGOMERY COUNTY, OHIO

By   
Kenneth R. Pohlman  
Assistant Prosecuting Attorney

KRP/kat

cc: John Norton

ENCLOSURE

## REMEDIES

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## ENVIRONMENTAL RIGHTS AND REMEDIES

§ 5:29

substances<sup>49</sup> into the environment,<sup>50</sup> regardless of the concentration

✓ 49. Section 101(14) of the Superfund Act defines "hazardous substance" to mean:

"(A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of this Act, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act, (E) any hazardous air pollutant listed under section 112 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas)."

A substance only has to be designated under one of the statutory provisions listed under section 101(14) to be a hazardous substance under the Superfund Act. *United States v Carolawn Co.* (1984, DC SC) 21 ERC 2124, 14 ELR 20696. See *Eagle-Picher Industries, Inc. v United States Environmental Protection Agency* (1985, App DC) 22 ERC 1657; *United States v Union Gas Co.* (1984, ED Pa) 586 F Supp 1522, 21 ERC 1001, 14 ELR 20491, affd (1986, CA3) 792 F2d 372, 24 ERC 1513, 16 ELR 20818; *United States v Metate Asbestos Corp.* (1984, DC Ariz) 584 F Supp 1143, 20 ERC 1953, 14 ELR 20433. Waste material is a hazardous substance within the meaning of the Superfund Act if at least one of the material's constituents is designated as a hazardous substance by section 101(14). *Eagle-Picher Industries, Inc. v United States Environmental Protection Agency*, supra; *United States v Carolawn Co.*, supra. The exemption under section 101(14)(C) of a waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress does not apply to the other alternative definitions of a hazardous substance in the other subsections of section 101(14). *Eagle-Picher Industries, Inc. v United States Environmental Protection Agency* (1985, App DC) 22 ERC 1657; *United States v Union Gas Co.* (1984, ED Pa) 586 F Supp 1522, 21 ERC 1001, 14 ELR 20491; *United States v Metate Asbestos Corp.* (1984, DC Ariz) 584 F Supp 1143, 20 ERC 1953, 14 ELR 20433; *United States v Conservation Chemical Co.* (1985, WD Mo) 619 F Supp 162, 24 ERC 1008, 16 ELR 20193, later proceeding (CA8) 770 F2d 103, 3 FR Serv 3d 229, on remand (WD Mo) 628 F Supp 391. The Act's definition of a hazardous substance contains no exemption for hazardous substances which may be used to neutralize other hazardous substances or for hazardous substances which may be used to effect a closure of a site. *Id.*

Mining wastes are a "hazardous substance" within the meaning of the Superfund Act *State v Bunker Hill Co.* (1986, DC Idaho) 24 ERC 1524.

Waste from the mining and milling of asbestos, including chrysotile asbestos, is a hazardous substance under the Act's definition of the term. *United States v Metate Asbestos Corp.* (1984, DC Ariz) 584 F Supp 1143, 20 ERC 1953, 14 ELR 20433.

PCBs are a hazardous substance within the meaning of the Superfund Act because PCBs are deemed a toxic substance under the Toxic Substance Control Act, 15 USCS § 2605(e). *New York v General Electric Co.* (1984, ND NY) 592 F Supp 291, 21 ERC 1097, 14 ELR 20719.

A hazardous substance includes a hazardous material which is of nominal commercial value and which is sometimes sold or reused and sometimes discarded. *United States v A & F Materials Co., Inc.* (1984, DC Ill) 20 ERC 1957.

Section 102(a) of the Superfund Act authorizes the EPA Administrator to list additional substances as "hazardous substances" within the meaning of the Superfund Act if they, "...when released into the environment, may present substantial danger to the public health or welfare or the environment. . . ." Although the Superfund Act generally does not regulate the spills and releases of oil into the environment, section 311 of the Federal Water Pollution Control Act does regulate oil spills and releases in a manner similar to the way the Superfund Act regulates hazardous substance releases and spills.

Section 124 of the Act, 42 USCS § 9624, as enacted by PL 99-499, 100 Stat 1613, 1689 (Oct. 17, 1986), establishes special rules with respect to the liability under sections 106 and 107 of the Superfund Act of the owner or operator of equipment for the recovery or processing (including recirculation of condensate) of methane at a facility.

Clean Water Act of such release as soon as he has knowledge of such release.<sup>51.1</sup> A person who fails to do so, or who submits in such a notification any information which he knows to be false or misleading, is subject to criminal punishment in accordance with the applicable provisions of title 18 of the United States Code or imprisoned for not more than 3 years (or not more than 5 years in the case of a second or subsequent conviction), or both, apparently on a strict liability basis.<sup>52</sup>

Section 104 of the Superfund Act establishes removal and remedial action<sup>52.1</sup> procedures and standards to be initiated by the President whenever any hazardous substance is released, or there is a substantial threat of such a release, into the environment;<sup>52.2</sup> or there is a release or substantial threat of release into the environment of any pollutant or contaminant (as originally defined by section 104(a)(2) of the Superfund Act<sup>52.3</sup> and now defined by section 101(33)<sup>52.4</sup>) which may present an imminent and substantial danger to the public

51.1. EPA has proposed regulations to implement section 103's notification requirements. 48 Fed Reg 23552 (May 25, 1983).

52. Section 103(f) provides certain exemptions from this notification requirement and from criminal punishment for failure to give proper notification.

A person's notification pursuant to this section, and information derived from such notification, cannot be used against such person in any criminal case, except a prosecution for perjury or giving a false statement. Section 103(b).

52.1. Removal action, which is defined by section 101(23) of the Act, 42 USCS § 9601(23), involves immediate response activities and emergency action. *Lone Pine Steering Committee v United States Environmental Protection Agency* (1985, DC NJ) 600 F Supp 1487, 22 ERC 1113, 15 ELR 20109, *affd* (CA3) 777 F2d 882, 23 ERC 1568, 16 ELR 20009. Remedial action, which is defined by section 101(24) of the Act, 42 USCS § 9601(24), as amended by PL 99-499, 100 Stat 1615 (Oct. 17, 1986), involves actions consistent with permanent or long-lasting remedies, including long-term construction projects involving considerable study, investigation, planning and engineering before the projects are undertaken. *Id.* Federally funded long-term remedial efforts are to be focused solely on those sites listed on EPA's National Priorities List. *New York v Shore Realty Corp.* (1985, CA2) 22 ERC 1625 (*dictum*).

52.2. Response action under this authority may be taken without regard to whether such a release or threatened release presents an imminent and substantial endangerment. *United States v Hardage* (1983, DC Okla) 18 ERC 1685, 13 ELR 20188.

52.3. To be excluded from the definition of a pollutant or a contaminant under section 104(a)(2), a substance had to be explicitly excluded under section 104(a)(2). *Eagle-Picher Industries, Inc. v United States Environmental Protection Agency* (1985, App DC) 22 ERC 1657.

52.4. 42 USCS § 9601(33), as enacted by PL 99-499, 100 Stat 1616 (Oct. 17, 1986). Section 101(33) states that the term "pollutant or contaminant" includes, but is not limited to, "... any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring; except that the term 'pollutant or contaminant' shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas)."

53. For priority resulted supply.

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# INNER OFFICE CORRESPONDENCE

TO: Mr. C. Bennett

DEPT.                     

DATE:                     

FROM: MR. ROBERT TATE

DEPT. SOLID WASTE

SUBJECT: TRANSFER TRAILERS TO LANDFILLS - MARCH 1979

POWELL ROAD (SCA)

SPRINGFIELD (SCA)

TREMONT (I.W.D.)

Truck 390	Truck 391
Johnson	Delph
20 Loads	20 Loads
40 Loads	
3000 yds.	

Truck 390	Truck 391
Johnson	Delph
16 Loads	17 Loads
33 Loads	
585,140 lbs.	637,720 lbs.
292.57 tons	318.86 tons

Truck 390	Truck 391
Johnson	Delph
15 Loads	11 Loads
26 Loads	
1950 yds.	

*Powell Road*

3-1 - 5  
3-2 - 4  
3-5 - 6  
3-6 - 7  
3-7 - 7  
3-8 - 6  
3-9 - 4  
3-16 - 1

*40 loads*

*Springfield*

3-12 - 5  
3-13 - 6  
3-14 - 2  
3-26 - 3  
3-27 - 4  
3-28 - 8  
3-29 - 5

*33 loads*

*Tremont*

3-16 - 2  
3-19 - 6  
3-20 - 4  
3-21 - 6  
3-22 - 2  
3-23 - 4

*26 loads*

*6  
7 loads*